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November 28, 2007

State Water Resources Control Board
Office of Chief Counsel
P.O. Box 100
Sacramento, CA 95812-0100

Attention: Jeannette L. Bashaw , Legal Secretary
(Submitted via e-mail to jbashaw@waterboards.ca.gov)

**Re: Petition for Review of 13267 Order issued to Universal Environmental, Inc.
regarding Investigation of Discharge of Pollutants at Off-site Property
[SF Bay Regional Board file No. 48S0046 (KA)]**

Request for Stay

Request for Hearing

Request to Hold Petition in Abeyance

Dear Friends:

Please accept this letter as a Petition for Review by Universal Environmental of an Order issued under Water Codes section 13267 by the Regional Water Quality Control Board (Region 2, San Francisco Bay Region), acting by its Executive Officer, on or about October 29, 2007.

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Petition for Review

1. Name, address, telephone number and e-mail address of the petitioner.

The Petitioner in this matter is:

Universal Environmental, Inc.
Attn: Mr. Dale Turnage
4101 Industrial Way
Benicia, CA 94510
Ph (707) 747-6699
dturnage@ue-inc.com

This Petitioner is represented by:

Peter W. McGaw
Archer Norris
2033 North Main Street, Suite 800
Walnut Creek, California 94596
Ph (925) 930-6600
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pmcgaw@archernorris.com

2. The specific action or inaction of the Regional Board which the State Board is requested to review and a copy of any order or resolution of the Regional Board which is referred to in the petition.

This is a Petition for review of an order issued under Water Code Section 13267 by the Regional Water Quality Control Board, Region 2 (San Francisco Bay Region), on October 29, 2007. The order at issue requires Petitioner Universal Environmental, Inc. to prepare and implement a workplan for the investigation of subsurface solvent contamination caused by others. The contamination originated entirely offsite and has apparently migrated under property owned by Universal Environmental. Alternatively, Universal is required to allow others to enter its private property and perform invasive work of an undefined scope. A copy of the Order is attached.

3. The date on which the regional board acted or refused to act or on which the regional board was requested to act.

The action of the Regional Water Quality Control Board occurred on October 29, 2007.

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4. **A full and complete statement of the reasons the action or failure to act was inappropriate or improper.**

Water Code section 13267 does not authorize Site Investigation Orders against Innocent Property Owners such as Universal Environmental

The subject Order was issued under the authority of Water Code section 13267. (See Order, page 3). However, that section does not authorize this sort of Order to be issued to innocent property owners such as Petitioner Universal Environmental.

This matter concerns investigation of a plume of solvent contamination that originated at a property known as 4186 Park Road in Benicia. The contamination has been traced to manufacturing operations that occurred on that property. The solvent plume emanating from that property has migrated under railroad tracks and has impacted several additional properties, including the property owned by Universal. Universal did not cause or contribute to any contamination.

Section 13267 only authorizes orders to be issued against persons who have discharged or who threaten to discharge waste. It provides in relevant part:

(b)(1) In conducting an investigation specified in subdivision (a), the regional board may require that ***any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste*** within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires.

Water Code section 13267 (b)(emphasis added).

Notably absent from the list of individuals subject to orders under section 13267 are property owners who have ***not*** discharged or threatened to discharge waste.

In addition, section 13267 requires that any Order issued under that section specifically cite the evidence justifying requiring the person receiving the order to provide the reports:

The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written

explanation with regard to the need for the reports, *and shall identify the evidence that supports requiring that person to provide the reports.*

Id. (emphasis added)

There is no evidence cited in the Regional Board's Order suggesting that Universal Environmental either caused or contributed to the discharge of waste that caused the subsurface plume that has migrated under Universal's property. The only basis for the Order cited by the Regional Board is that Universal is the owner of property which has been impacted by waste discharged by others. This is not a category of persons subject to orders under section 13267. This point was made the Regional Board in September 2005 when this issue originally arose. The Regional Board never responded to Universal's reminder of the Board's limited authority under section 13267. Instead, over two years later, without any further communication from the Regional Board, the Regional Board issued the present order to Universal. The Order is not authorized by water Code section 13267.

5. The manner in which the petitioner is aggrieved.

Petitioner is aggrieved in that it is required by an unlawful order to expend substantial funds to conduct activities to investigate subsurface contamination caused by others for which Petitioner has no legal responsibility. Alternatively, Petitioner is required by an unlawful order to allow others onto its private property to conduct invasive investigation without just compensation as required by the Constitutions of the United States and the State of California. .

6. The specific action by the state or regional board which petitioner requests.

Petitioners asks the State Board to vacate the unlawful Order.

Petitioner may also ask the State Board to stay the operation of the Order until the State Board has made a decision on this Petition. Petitioner is attempting to reach an acceptable access agreement which will allow the dischargers to conduct the investigation at their expense, in which case no stay will be necessary to protect petitioner. Petitioner will advise the State Board if these efforts are not successful so that a stay is necessary.

7. A statement of points and authorities in support of legal issues raised in the petition, including citations to documents or the transcript of the regional board hearing where appropriate.

See item 4, above.

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8. **A statement that the petition has been sent to the appropriate regional board and to the discharger, if not the petitioner.**

A copy of this Petition is being sent to the Regional Water Quality Control Board, San Francisco Bay Region.

9. **A statement that the substantive issues or objections raised in the petition were raised before the regional board, or an explanation of why the petitioner was not required or was unable to raise these substantive issues or objections before the regional board.**

The substantive issues and objections raised by this Petition were raised before the Regional Board, or could not have been raised since the Petitioner received no advance notice the Order was to be issued and the Regional Board held no hearing prior to issuing the Order.

Other matters – Administrative Record:

In light of Petitioner's request that this Petition be held in abeyance, Petitioners request the Regional Board be allowed to defer preparation of the administrative record at this time.

Request for Hearing:

Petitioner may wish to submit additional evidence and may request a hearing to consider additional evidence. Petitioner will advise the State Board of its specific requests in this regard when it requests the State Board no longer hold this Petition in abeyance.

Request to Hold Petition in Abeyance:

In light of Petitioners' efforts to resolve matters informally with the Regional Board and with the dischargers, Petitioner asks the State Board to hold this Petition in abeyance until such time as the Petitioners request the Petition proceed. At that time, or at such other time as the State Board may allow, Petitioners may submit a more detailed statement of points of authorities and additional evidence which was not considered by the Regional Water Board in making the decision which gives rise to this Petition.

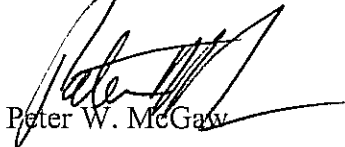
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Petition of Universal Environmental, Inc.
November 28, 2007

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Petitioners appreciate the consideration of these matters by the State Water Resources Control Board.

Very truly yours,

ARCHER NORRIS



Peter W. McGaw

Encls.

cc: (w/encls; by e-mail where indicated):

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California Regional Water Quality Control Board

San Francisco Bay Region

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Arnold Schwarzenegger
Governor

October 29, 2007
File No: 48S0046 (KA)

Universal Environmental, Inc.
Attn: Mr. Wayne Turnage
4101 Industrial Way
Benicia, CA 94510

SUBJECT: Requirement for Work Plan for Soil and Groundwater Characterization at
4101 Industrial Way, Benicia, Solano County

Dear Mr. Turnage:

Based on currently available data, Water Board staff has determined that the soil and groundwater at the above-referenced property may contain volatile organic compounds (VOCs) at concentrations that constitute a significant risk to human health and the environment. The Water Board requires that Universal Environmental, Inc. (Universal), as owner of the property at 4101 Industrial Way, submit a work plan for characterization of soil and groundwater at this site. Universal's business includes providing various commercial services, including industrial decontamination, emergency response, and hazardous waste transportation from their facility on Industrial Way.

Background

Previous sub-surface investigations in the vicinity of your property have reported the presence of trichloroethene (TCE), cis-1,2-dichloroethene (DCE), 1,1-DCE, 1,1-dichloroethane (DCA), 1,1,1-trichloroethane (TCA), 1,1,2-TCA, tetrachloroethene (PCE), chloroform, and 1,2-DCA in groundwater samples. These volatile chemicals can migrate from groundwater into structures, with the potential to adversely affect human health.

On behalf of the "4186 Park Road Group" environmental consultant ERM conducted soil and groundwater investigations during 2005 and 2006 that included the Park Road site, 3985 and 4072 Teal Court (Parachini Properties), and 4201 Industrial Way (Bay Area Coffee). These parcels surround your property on the northwest, southwest, and northeast, respectively. Reported TCE concentrations in groundwater samples from monitoring wells on the Park Road property upgradient from your property were approximately 12,000 micrograms per liter (ug/L). Samples from cross-gradient wells at 4072 Teal Court and 4201 Industrial Way adjacent to the Universal property contained 2,100 ug/L and 5,000 ug/L of TCE, respectively.

ERM also used cone penetrometer testing (CPT) equipment on surrounding properties and along Industrial Way in front of your property to collect information necessary to identify preferential



pathways for migration of VOCs in the subsurface. A groundwater sample collected beneath Industrial Way adjacent to the downgradient boundary of the Universal property contained approximately 1,200 ug/L TCE. Based on these CPT data, it appears that VOCs are present in permeable strata that may extend beneath your property. It is important that additional soil and groundwater data be collected to provide an understanding of the hydrostratigraphy at your site, evaluate the occurrence of these toxic chemicals, and assist in developing cleanup objectives and an appropriate remediation strategy for the 4186 Park Road groundwater plume.

Requirement

To assist in the delineation of the impacted area, evaluation of remedial measures, and determination of the potential risk to human and environmental receptors, you are directed to submit a work plan to characterize the three-dimensional extent and concentrations of VOCs in the subsurface, and provide an understanding of the geologic and hydrogeologic factors that control the migration of these chemicals. **This work plan shall be submitted to the Board by November 30, 2007, and must be acceptable to the Executive Officer.** The work plan is required to contain the following information:

- Analysis and summary of site history and physical setting, including a scaled map of the site depicting the location of structures and other significant features.
- A site conceptual model, including an analysis and summary of the nature and extent of contamination and any additional data needed to complete the site characterization and evaluation of potential remedial alternatives (as may be required).
- A sampling program based on known information designed to document concentration gradients in soil and groundwater and identify potential source areas. This program shall include soil borings strategically located to quantitatively assess subsurface conditions at your property.
- A soil vapor sampling program designed to document concentrations of VOCs in shallow soil at your property.
- Soil and groundwater sample locations, depths, frequency, and designations. The proposed sampling locations shall be depicted on a scaled map with provisions for surveying sample locations by a licensed professional land surveyor.
- Sampling equipment and procedures.
- Sample handling and laboratory analytical methods.
- Quality assurance procedures and objectives.
- Project schedule with corresponding time to complete the individual tasks.

- Format and schedule for a report of the investigation containing the field data, groundwater contour map, analyte isoconcentration maps, and laboratory analytical results.

This requirement for a report is made pursuant to the Water Code Section 13267, which allows the Board to require technical or monitoring program reports from any person who has discharged, discharges, proposes to discharge, or is suspected of discharging waste that could affect water quality. An enclosure provides additional information about Section 13267 requirements. Any extension in the above deadline must be confirmed in writing by Board staff.

Rationale for Requirement

Information in our files indicates that ERM contacted you in September 2004 on behalf of the Park Road Group with an offer to conduct an investigation at your site equivalent to the one described in this letter. At that time Universal raised a number of objections to the ERM proposal and an agreement for access was not reached. On February 25, 2005, the Water Board acknowledged this impasse in a letter to Universal and the Park Road Group and requested that these two parties submit a completed access agreement by March 15, 2005, that enabled the Park Road Group to perform the necessary work.

The text of the February 25th letter also stated, "If you cannot submit a signed access agreement, please submit by this date your respective rationale as to why your own proposal for access is reasonable. Board staff will then evaluate the responses and make a determination about whether one or both proposals is unreasonable. Should you disagree with that determination, you will be provided an opportunity to make your case to the Assistant Executive Officer. If we conclude that the 4186 Park Road Group is not making a reasonable access proposal, then the Board may pursue enforcement action against the Group for failure to comply with the underlying site cleanup order. If we conclude that Universal Environmental is not offering reasonable access, then the Board will issue a directive to Universal Environmental to carry out the necessary work (i.e. submit a work plan for soil gas and groundwater sampling). Failure to comply with that directive may result in Board enforcement action."

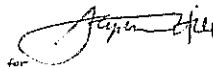
In a letter responding to the Water Board dated April 13, 2005, Mr. Peter McGaw, the attorney representing Universal, enumerated six objections to allowing the Park Road Group access to the Universal property. Water Board staff evaluated these concerns, along with those of the 4186 Park Road Group, and in a letter to Universal dated August 8, 2005, the Water Board responded to these objections, concluding that, "Universal Environmental, Inc., is not offering reasonable access." That letter continues, "In the event that you do not provide reasonable access, the Water Board will require you to perform the necessary investigation at the subject property pursuant to Water Code section 13267 or 13304." And further, "Pursuant to our letter of February 25, 2005, Universal Environmental is required to submit a signed access agreement that enables the 4186 Park Road Group to perform the necessary work. The deadline for submitting the agreement is extended to August 30, 2005." Universal Environmental did not submit a signed access agreement and did not rebut Board staff's conclusion that Universal

Environmental had failed to provide reasonable access. Copies of the February 25th and August 8th letters from the Water Board to Universal are enclosed with this letter for reference.

Should you now choose to have ERM proceed with this work in lieu of conducting the required investigation yourself, you may provide us with a copy of a completed access agreement signed by both parties by November 30, 2007, rather than the work plan described above. Your failure to submit either an acceptable investigation work plan or a completed, fully-signed access agreement by this date will place you in violation of this requirement.

If you have any questions, please contact Kent Aue of my staff at (510) 622-2446 [e-mail: kaue@waterboards.ca.gov].

Sincerely,



Digitally signed by Stephen Hill
Date: 2007.10.29 15:50:23 -07'00'

Bruce H. Wolfe
Executive Officer

Enclosures: Water Code Section 13267 Fact Sheet
Water Board letter to Universal, dated February 25, 2005
Water Board letter to Universal, dated August 8, 2005

cc: (via email, with enclosures)

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Linda S. Adams
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Arnold Schwarzenegger
Governor

Fact Sheet – Requirements For Submitting Technical Reports Under Section 13267 of the California Water Code

What does it mean when the regional water board requires a technical report?

Section 13267¹ of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires."

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

The requirement for a technical report is a tool the regional water board uses to investigate water quality issues or problems. The information provided can be used by the regional water board to clarify whether a given party has responsibility.

Are there limits to what the regional water board can ask for?

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The regional water board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don't comply?

Depending on the situation, the regional water board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply?

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the regional water board staff will not change the requirement and/or date to comply?

You may ask that the regional water board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the regional water board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board.

If I have more questions, whom do I ask?

Requirements for technical reports indicate the name, telephone number, and email address of the regional water board staff contact.

Revised August 2005

¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov.





California Regional Water Quality Control Board

San Francisco Bay Region



Alan C. Lloyd, Ph.D.
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Arnold Schwarzenegger
Governor

February 25, 2005
File No. 48S0046 (MRC)

Universal Environmental, Inc.
Attn: Mr. Wayne Turnage
4101 Industrial Way
Benicia, CA 94510

Champion Laboratories, Inc.
c/o Todd Maiden
Seyfarth Shaw
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San Francisco, CA 94111-5858

TMaiden@seyfarth.com

Equity Office Properties Trust
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Frank_Frankini@equityoffice.com

Hayes Lemmerz International, Inc.
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Northville, MI 48167

mcoffman@hayes-lemmerz.com

Subject: Property Located at 4101 Industrial Way, Benicia, Solano County - Request for
Access Agreement

Dear Messrs. Turnage, Maiden, Frankini, and Coffman:

Board staff is aware that access is needed to facilitate passive soil gas sampling and installation and sampling of one or more groundwater monitoring wells on property owned by Universal Environmental, Inc. at 4101 Industrial Way in Benicia, California.

The former manufacturing facility located at 4186 Park Road, upgradient from 4101 Industrial Way, is impacted with chlorinated solvents in groundwater and shallow soil. The current owners and former operators at 4186 Park Road (4186 Park Road Group) are working with the Water Board to delineate the extent of groundwater pollution. To accomplish the required sampling and well installation, the 4186 Park Road Group needs access to the property at 4101 Industrial Way. It is our understanding that Universal Environmental and the 4186 Park Road Group have been unable to reach agreement regarding terms for access.

I request that Universal Environmental, Inc. and the 4186 Park Road Group submit by March 15, 2005, an access agreement that (1) enables the 4186 Park Road Group to perform the necessary work and (2) is signed by all relevant parties.

If you cannot submit a signed access agreement, please submit by this date your respective rationale as to why your own proposal for access is reasonable. Board staff will then evaluate the responses and make a determination about whether one or both proposals is unreasonable. Should you disagree with that determination, you will be provided an opportunity to make your case to the Assistant Executive Officer. If we conclude that the 4186 Park Road Group is not making a reasonable access proposal, then the Board may pursue enforcement action against the Group for failure to comply with the underlying site cleanup order. If we conclude that Universal Environmental is not offering reasonable access, then the Board will issue a directive to Universal Environmental to carry out the necessary work (i.e. submit a workplan for soil gas and groundwater sampling). Failure to comply with that directive may result in Board enforcement action. If Universal Environmental, Inc. fails to respond to this letter we will take this as evidence that they are not providing reasonable access.

If you have any questions, please contact Mary Rose Cassa of my staff at (510) 622-2447 or via e-mail: mcassa@waterboards.ca.gov.

Sincerely,

Bruce H. Wolfe
Executive Officer

cc: Mailing List

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Alan C. Lloyd, Ph.D.
Agency Secretary

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Arnold Schwarzenegger
Governor

August 8, 2005
File No. 48S0046 (MRC)

Universal Environmental, Inc.
Attn: Mr. Wayne Turnage
4101 Industrial Way
Benicia, CA 94510

Subject: Property Located at 4101 Industrial Way, Benicia, Solano County - Requirement for Access Agreement

Dear Mr. Turnage:

Board staff has reviewed the response from your attorney, Peter McGaw (April 13, 2005), concerning the Water Board's requirement dated February 25, 2005, for an agreement with the 4186 Park Road Group ("Group") to allow access to your property located at 4101 Industrial Way in Benicia. As explained below, Board staff is of the opinion that Universal Environmental, Inc. is obstructing the investigation and cleanup of contamination from the property located at 4186 Park Road, and urge you to enter into an agreement that allows the Group access to your property.

Following are the concerns expressed in Mr. McGaw's letter and our responses:

1. **Disruption:** The letter states that Universal has been asked to disrupt its normal daily operations to accommodate the proposed work. Board staff would expect that the Group would coordinate with Universal to minimize adverse impacts to daily operations during the proposed work and subsequent sampling events. It is normal practice to complete monitoring wells flush with grade. The sooner the investigation is complete, the sooner the cleanup can be implemented, thus minimizing the length of time any well would require access.
2. **Scope of License:** Universal believes it is unreasonable to require commitment to allowing "additional undefined work" on its property without protection against additional costs or possible disruptions to ongoing business operations. The Group is attempting to define the down-gradient extent of a plume that appears to pass beneath Universal's property. Understanding the distribution of contaminants throughout the plume is an important element of devising an effective remediation plan. While the scope of future work is unknown, based on our experience with similar environmental investigations, it is unlikely that a significant amount of additional work will be required.

It is also unlikely that future access to Universal's property would require more than the potential installation of additional monitoring wells. It should be possible to work out a schedule for the proposed investigation work and future monitoring that is workable for Universal.

3. **Transmission of Lab Results Directly to Universal:** Universal has requested that laboratory results be provided to it at the same time as results are provided to the Group. Universal is concerned that potential manipulation of data might be used to claim that Universal somehow contributed to any condition that may be found as a result of the testing. The Group asserts that its consultants should perform Quality Assurance/Quality Control before results are transmitted to Universal. Common procedures for handling laboratory data set forth in USEPA guidance for Superfund include QA/QC. This guards against the possibility that faulty data could be disseminated, should laboratory data validation fail for some reason. Tampering with such data to make it appear that another party is at fault is fraud. The Group has offered to provide the data to Universal prior to sending it to the Water Board. The Group has also offered to split samples with Universal and allow Universal to perform its own analysis at its own cost, if Universal wishes to confirm the Group's results.
4. **Responsibility for Damage:** Universal wants assurance that the Group will be fully responsible for any damage the Group or its contractors might cause "in whole or in part" while on Universal's property. The Group would replace this provision with one that exonerates it for damage that occurs from "circumstances beyond its control." Board staff is of the opinion that Universal's request is unreasonable. The Group should not be held responsible for damage caused by negligence or willful misconduct on the part of Universal's employees, nor should the Group be responsible for damage that results in whole or in part from any event outside of its control.
5. **Joint and Several Responsibility for Damage:** Universal is concerned that the Group could default on its obligation to procure insurance to protect Universal, leaving Universal unable to fully recover from Universal and therefore wants the right to recoup any losses directly from members of the Group. The Group objects to having its constituent members be liable to Universal for damage by the Group. Board staff is of the opinion that Universal's position is unreasonable. Insurance may be purchased in advance for a fixed term. The access agreement could specify the amount and term of insurance and require proof of payment.
6. **License Fee:** Universal has asked that it be made whole so that it does not suffer a financial loss as a result of its willingness to accommodate the Group's request for access. The Group has, in response, offered a "license fee" in the fixed amount of \$2,000. It is common practice for the entity requesting access to initiate the draft agreement. The Group should not have to cover the unnecessary costs of protracted legal negotiations resulting from Universal's initiative to draft an agreement.

7. **Tolling Agreement:** Universal has asked that the Group toll any statutes of limitations that might bar claims by Universal for damage to its property as a result of contamination emanating from the property controlled by the Group. Tolling statutes of limitation related to any contamination that might be passing beneath Universal's property is not pertinent to the requested access agreement. Should Universal desire to recover damages related to contamination it did not cause (if any exists), that issue should be pursued separately.

We conclude that Universal Environmental, Inc. is not offering reasonable access. I urge you to enter into an agreement that allows the Group access to your property. In the event that you do not provide reasonable access, the Water Board will require you to perform the necessary investigation at the subject property pursuant to Water Code section 13267 or 13304.

Pursuant to our letter of February 25, 2005, Universal Environmental, Inc. is required to submit a signed access agreement that enables the 4186 Park Road Group to perform the necessary work. The deadline for submitting the agreement is extended to August 30, 2005.

If you have any questions, please contact Mary Rose Cassa of my staff at (510) 622-2447 or via e-mail: mcassa@waterboards.ca.gov.

Sincerely,

Bruce H. Wolfe
Executive Officer

enclosure: Water Code Section 13267 Fact Sheet

cc: see next page

cc: w/enclosure:

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Agency Secretary

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San Francisco Bay Region

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Fact Sheet – Requirements For Submitting Technical Reports Under Section 13267 of the California Water Code

What does it mean when the regional water board requires a technical report?

Section 13267¹ of the California Water Code provides that "...the regional board may require that any person who has discharged, discharges, or who is suspected of having discharged or discharging, or who proposes to discharge waste...that could affect the quality of waters...shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires."

This requirement for a technical report seems to mean that I am guilty of something, or at least responsible for cleaning something up. What if that is not so?

The requirement for a technical report is a tool the regional water board uses to investigate water quality issues or problems. The information provided can be used by the regional water board to clarify whether a given party has responsibility.

Are there limits to what the regional water board can ask for?

Yes. The information required must relate to an actual or suspected or proposed discharge of waste (including discharges of waste where the initial discharge occurred many years ago), and the burden of compliance must bear a reasonable relationship to the need for the report and the benefits obtained. The regional water board is required to explain the reasons for its request.

What if I can provide the information, but not by the date specified?

A time extension may be given for good cause. Your request should be promptly submitted in writing, giving reasons.

Are there penalties if I don't comply?

Depending on the situation, the regional water board can impose a fine of up to \$5,000 per day, and a court can impose fines of up to \$25,000 per day as well as criminal penalties. A person who submits false information or fails to comply with a requirement to submit a technical report may be found guilty of a misdemeanor. For some reports, submission of false information may be a felony.

Do I have to use a consultant or attorney to comply?

There is no legal requirement for this, but as a practical matter, in most cases the specialized nature of the information required makes use of a consultant and/or attorney advisable.

What if I disagree with the 13267 requirements and the regional water board staff will not change the requirement and/or date to comply?

You may ask that the regional water board reconsider the requirement, and/or submit a petition to the State Water Resources Control Board. See California Water Code sections 13320 and 13321 for details. A request for reconsideration to the regional water board does not affect the 30-day deadline within which to file a petition to the State Water Resources Control Board.

If I have more questions, whom do I ask?

Requirements for technical reports indicate the name, telephone number, and email address of the regional water board staff contact.

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¹ All code sections referenced herein can be found by going to www.leginfo.ca.gov.